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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,941	09/22/2003	Andrew Walker	P-US-CS 1144	1634
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Bruce S. Shapiro Black & Decker Corporation Mail Stop TW199 701 E. Joppa Rd Towson, MD 21286				
EXAMINER				
MAIL CHUCK Y				
ART UNIT		PAPER NUMBER		
3677				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/667,941

Applicant(s)

WALKER ET AL.

Examiner

Chuck Mah

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/15/08 (RCE).
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7 and 9-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3,5-7 and 9-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3, 5-7 and 9-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claims 1, 6, 9, 12, 13 and 15, see paragraph 2 of the final rejection dated 10/16/2007.

In claim 2, lines 8-11, "wherein the flexible sheet is mounted to the securing plate to retain gaseous vibration damping medium between said at least one recess in said housing and a single thickness of said flexible sheet to define a chamber between them" is confusing. It is uncertain whether "them" is referring to the plate and sheet or referring to the recess and sheet.

Claim 2 is further rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: at least a damping medium to enable the claimed invention operable and at least how the "securing plate" relating to the "housing" to define a gripping portion. Claim 2 raises the uncertainty of operability, without the required element.

In claim 3, it cannot be understood how "a plurality of pocket" of "at least one said flexible sheet" is structurally related to the "at least one respective flexible sheet", with "a single thickness" of claim 2. Apparently, claim 3 structurally contradicts with the same flexible sheet of claim 2.

Further in claim 6, line 3, "said gripping portion surrounding" is structurally confusing and should be "at least a portion of said gripping portion surrounding". According to the specification, only a portion of the grip is in fact surrounding the chamber.

Line 12, "...damping medium is retained between said chamber and said housing" is confusing. As best as understood from the disclosure, the damping medium is retained in the chamber. A chamber is a space. How can a medium be retained between a space and the housing, without being disposed in the space?

Note similar errors in claims 9, 12, 13 and 15.

Further in claim 9, line 5, "two chambers" should be "at least two chambers" to delimit the additional chambers of dependent claim 10.

Line 9, it cannot be understood how "a recess" (one recess) is able to accommodate "two chambers".

Lines 14-15, it is unclear which one "said chamber" is referring to. There are multiple chambers.

In claim 10, line 2, it is not clear whether "two of said chambers" is referring to the additional chambers or the chambers stated in claim 9. Also note that claim 10 is not properly identified with marking to show the changes relative to the immediate prior version (see 37 CFR 1.121).

In claim 12, lines 7-8, it cannot be understood exactly what "an upper surface" and "an inner surface" are referring to, structurally.

Note similar errors in claim 13.

3. Claims 1-3, 5-7 and 9-15 may be given favorable consideration if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

4. For example, the following changes of claims 1 and 2, suggested by the examiner, are presented to applicant for consideration. Applicant may amend other claims with similar wordings or applicant's own lexicographer to clarify the claim language.

In claim 1,

Line 1, change "gripping portion" to —handle assembly— to eliminate confusion with "a gripping portion" in line 4.

Line 10, part of line 10 may be rewritten as "such that when the handle is held by a user's hand in use, at least a portion of said flexible member containing the damping medium ~~in use~~ protrudes through...".

In claim 2,

Line 7, after "securing plate" insert --secured to the housing and--.

Line 8 after "protrude" insert --outwardly--.

Line 8, after "aperture" insert --to define a chamber between the recess and said flexible sheet--.

Line 10, delete "a single thickness of".

Line 11, delete "to define a chamber between them and ".

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Mah whose telephone number is (571)272-7059. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571)272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chuck Mah/
Primary Examiner, Art Unit 3677

CM